

Remarks

Claims 1-17 have been initially rejected under 35 U.S.C. §103 as being obvious by Lezotte in view of McDermott. Applicant respectfully disagrees with the examiner's position and hereby requests reconsideration in view of the following argument.

Applicant's claim 1 defines a heat source locator to be used in combination with a light viewing device enabling one to view a light outside the visible spectrum of a human is disclosed. The heat source locator comprises thermal detection means for detecting a thermal change within a field of view. The thermal detection means has an axis generally linear centralized within the field of view, and an indicator which indicates the sensing of a heat source. The heat source locator also has light emitting means for generating light having a wavelength outside the visible spectrum of a human. The light beam is aligned generally parallel and closely adjacent to the thermal detection means axis. With this construction, an operator may locate a heat source by sensing the presence of the heat source through the thermal detection means and then locate the position of the located heat source by directing the light beam from the light emitting means while viewing the location with a light viewing device.

Applicant respectfully submits that the patentable element in the present application is the fact that the light produced by the locator is emitted at a wavelength which is invisible to humans. As the examiner correctly pointed out the light emitted by the LeZotte patent is visible light. However, the examiner has taken the position that the light emitted from the McDermott patent has "a wavelength...outside the visible spectrum of a human (light sources in a hooded housing that shapes a beam of emitted radiation so that the direction of the emitted light beam is restricted to

illuminate essentially that surface to be seen by the user)(col. 2, lines 25-40).” It is this contention that the Applicant submits as being erroneous. The McDermott patent shows only the use of an incandescent lamp 62 to produce visible light. The visible light may be white, red or blue, see Col. 11, lines 3-41. This light may be “shaped” by limiting the projection angle of the flashlight light beam relative to the horizon through a gravity sensitive switch, i.e., the flashlight only projects the light downward. This “shaping” is not the projecting of an invisible light beam as claimed by Applicant. As this patent does not show the use of invisible light the examiner’s contention is incorrect and obviousness is not shown by this reference.

Applicant respectfully submits that as neither LeZotte nor McDermott disclose or suggest the use of an invisible light beam, these patents should not be utilized to make Applicant’s claimed invention obvious.

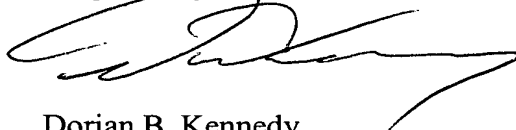
It is well settled that the obviousness of an invention cannot be established by combining the teaching of the prior art absent some teaching, suggestion or incentive supporting the combination, see *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985); *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984); *Pentec, Inc. v. Graphic Controls Corp.*, 776 F.2d 309, 227 USPQ 766 (Fed. Cir. 1985). Moreover, the mere fact that the prior art could be modified in the manner suggested by the examiner does not make such a modification obvious unless the prior art fairly suggests the desirability of the modification, see *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Here, the references do not suggest any motivation for, or the desirability of, Applicant’s unique construction of the thermal

detector in conjunction with an invisible light source. As such, it is improper to utilize these references to establish obviousness.

Applicant submits that as independent claims 1, 6 and 13 all include the limitation of the invisible light source the just submitted argument applies equally to all such claims.

By this Amendment it is believed that the application has now been placed in condition for allowance. An early notice to such effect is accordingly solicited.

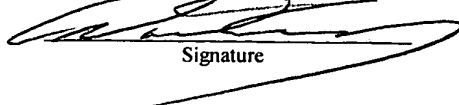
Respectfully submitted,



Dorian B. Kennedy
Reg. No. 36,840

BAKER, DONELSON, BEARMAN & CALDWELL
Suite 900
Five Concourse Parkway
Atlanta, Georgia 30328
(770) 396-2244

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Signature

SET OF ALL PENDING CLAIMS

Sub. B2
1. (Original) A heat source locator to be used in combination with a light viewing device enabling one to view a light outside the visible spectrum of a human, the heat source locator comprising:

thermal detection means for detecting a thermal change within a field of view, said thermal detection means having a central axis within said field of view and an indicator which indicates the sensing of a heat source; and

light emitting means for generating light, said light emitting means having a light beam of a wavelength outside the visible spectrum of a human, said light beam being aligned generally parallel and closely adjacent to said thermal detection means axis;

whereby an operator may locate a heat source by sensing the presence of the heat source through the thermal detection means and then locating the position of the located heat source by directing the light beam from the light emitting means while viewing the location with a light viewing device.

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2. (Original) The heat source locator of claim 1 further comprising a second light emitting means, said second light emitting means generating a beam of light in a visible spectrum and being aligned generally parallel and closely adjacent to said axis of said thermal detection means.

3. (Original) The heat source locator of claim 1 wherein said thermal detection means produces a visual indication of the sensing of a heat source.

4. (Original) The heat source locator of claim 1 wherein said thermal detection means produces an audible indication of the sensing of a heat source.

5. (Original) The heat source locator of claim 4 wherein said thermal detection means includes an earpiece speaker.

6. (Currently amended) A heat source locator comprising;
a housing;
a thermal detector mounted within said housing to detect a heat source generally along a field of view; and

a light emitting device mounted within said housing positioned to emit a beam of light having a wavelength outside the visible spectrum of a human and generally centered along said thermal detector field of view;

whereby an operator may locate a heat source by sensing the presence of the heat source through the thermal detector and then locating the position of the heat source by directing the light beam from the light emitting device while viewing such with a light viewing device adapted to view the emitted wavelength.

7. (Cancelled)

8. (Cancelled)

9. (Currently Amended) The heat source locator of claim [8] 6 further comprising a second light emitting means, said second light emitting means generating a beam of light in a visible spectrum and being aligned generally parallel and closely adjacent to said thermal detection means linear direction of sensitivity.

10. (Original) The heat source locator of claim 6 wherein said thermal detection means produces a visual indication of the sensing of a heat source.

11. (Original) The heat source locator of claim 6 wherein said thermal detection means produces an audible indication of the sensing of a heat source.

12. (Original) The heat source locator of claim 11 wherein said thermal detection means includes an earpiece speaker.

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13. (Original) A heat source locator system comprising;
a thermal detector having a beam of sensitivity along a central axis;
a light emitting device positioned to produce a beam of light having a wavelength outside the visible spectrum of a human and aligned generally along said thermal detector beam of sensitivity central axis; and
a light viewing device adapted to enable a viewer to view the light produced by said light emitting device,

whereby an operator may locate a heat source by sensing the presence of the heat source through the thermal detector and then locating the position of the heat source by directing the light beam from the light emitting device while viewing the location with the light viewing device.

14. (Original) The heat source locator of claim 13 further comprising a second light emitting means, said second light emitting means generating a beam of light in a visible spectrum and being aligned generally parallel and closely adjacent to said thermal detection means linear direction of sensitivity.

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15. (Original) The heat source locator of claim 13 wherein said thermal detection means produces a visual indication of the sensing of a heat source.

16. (Original) The heat source locator of claim 13 wherein said thermal detection means produces an audible indication of the sensing of a heat source.

17. (Original) The heat source locator of claim 16 wherein said thermal detection means includes an earpiece speaker.